Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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To: Federal-State Joint Board on Universal Service

REPLY COMMENTS OF CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby submits the following Reply Comments in the above-captioned proceeding.[1]

I. SUMMARY

The comments in this proceeding and the testimony received by the Joint Board on November 17, 2004 overwhelmingly affirm that areas served by rural telephone companies have unique characteristics. CenturyTel urges the Joint Board to decline to recommend any proposals to alter the criteria for determining whether incumbent local exchange carriers ("ILECs") are eligible for rural high-cost universal service support. No commenter in this proceeding has provided a compelling reason to depart from the definition of "rural telephone company" set forth in the Communications Act of 1934, as amended (the "Act"), as the threshold for support in rural high-cost areas. Conversely, CenturyTel and others have provided ample support for retaining the current standards for eligibility. The Joint Board also should recommend that rural carriers continue to calculate support based on historic costs, as forward-looking cost models do not accurately reflect the actual costs incurred by rural telephone

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1 Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Related to High-Cost Universal Service Support*, CC docket No. 96-45, FCC 04J-2 (rel. Aug. 16, 2004).

companies in providing service to rural areas. Similarly, competitive eligible telecommunications carriers ("CETCs") should be required to justify their level of support based on their own actual costs, not the costs of the ILEC. ILEC costs are driven by their service obligations as carriers-of-last-resort. Therefore, ILEC costs do not serve as an appropriate proxy for determining CETC support. CenturyTel further requests that the Joint Board recommend changes to the FCC's safety-valve mechanism in order to not penalize carriers for expenditures on telecommunications infrastructure made in the first year after acquiring a telecommunications exchange.

II. TESTIMONY TO THE JOINT BOARD AFFIRMS THAT "RURAL" MARKETS, AS DEFINED IN THE COMMUNICATIONS ACT, ARE PARTICULARLY VULNERABLE TO CURRENT REGULATORY INSTABILITY

The record in this proceeding demonstrates that the Joint Board should take great care not to make recommendations that could reduce universal service support to rural communities. Rural consumers are more vulnerable to rate increases than urban consumers, and would be disproportionately affected by the potential rate increases or reductions in infrastructure investment that could result from proposals to redefine "rural" for the purposes of universal service support. Several commenters propose new thresholds for determining whether a carrier qualifies as "rural," (e.g., based on line-count). However, none provide an adequate reason for departing from Congress's own definition of "rural telephone company" as set forth in the Act. As explained by Mr. Jeffrey Reynolds, a consultant testifying before the Joint Board:

> [the statutory definition of "rural telephone company"] contains multiple criteria for a reason. . . . Study areas served by rural carriers vary significantly in many aspects, including line density, topography, and demographics. Because of this, use of the definition of rural telephone company under the Act reflects and

> captures the variability of these markets better than any single test would.[2]

Simply looking to carrier size is not a valid indicator of whether a carrier is "rural." The Joint Board also sought comment on whether to require carriers owned by the same holding company to aggregate their study areas, but commenters have widely discredited this notion.[3] As explained by Mr. Reynolds, "Most of the operating costs associated with high-cost loops exist at the operating company level," not at the holding company level.[4] Where there are efficiencies to be gained in a holding company structure, such as through increased purchasing power and lower overheads (on a per-line basis), such efficiencies are fully reflected in lower costs reported by the carrier. For example, due to its holding company structure, CenturyTel's corporate operations expenses consistently fall well below the FCC's corporate operations expense cap, while independent rural carriers' expenses typically do not. These lower costs directly benefit universal service through lower demands on the universal service fund. As such, eligibility for rural support should continue to be determined at the study area level.

In the face of the adverse impacts associated with changing the definition of "rural" at this time, there does not appear to be any compelling reason to adopt any of the less robust definitions proposed in this proceeding. There are too many major, comprehensive regulatory changes being considered by the Commission for the Joint Board to propose major

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2 Federal Communications Commission, Public Meeting on High-Cost Universal Service Support for Areas Served by Rural Carriers and Related Issues, November 17, 2004 at 37 ("Transcript").

3 *See, e.g.*, Comments of ALLTEL Corporation at 2-4; Comments of Regulatory Commission of Alaska at 18; Comments of the United States Telecom Association at 8-13; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") at 6-7.

4 Transcript at 88.

changes to universal service eligibility. Among other things, intercarrier compensation and CETC designation criteria should take precedent over any changes considered here. These proceedings will fundamentally change the regulatory landscape, and potentially will make obsolete a number of the assumptions that are driving the current proceeding.[5] For example, adoption of certain proposals for intercarrier compensation reform would radically alter rural carrier compensation received from both access charges and universal service programs. Further, if the Commission determines to strengthen the requirements for CETC designation, such action may alleviate concerns regarding the "uncontrolled" growth of the universal service fund. Changes to rural ILEC universal service eligibility, especially during this time of substantial regulatory uncertainty, would disserve the public interest.

III. THE JOINT BOARD SHOULD RECOMMEND THAT THE FCC CONTINUE TO DETERMINE RURAL ILEC UNIVERSAL SERVICE SUPPORT BASED ON ACTUAL, EMBEDDED COSTS

The Joint Board should recommend that the FCC continue to calculate rural universal service support based on embedded costs. Testimony before the Joint Board demonstrates that embedded costs are the most accurate, verifiable reflection of costs actually incurred by rural ILECs in providing basic services as carrier-of-last-resort. Any forward-looking cost methodology would create uncertainty for universal service support to rural areas and create inefficiencies for rural carriers.

First, there is substantial doubt that any forward looking cost model could accurately reflect the costs of rural carriers. As Joel Lubin of AT&T pointed out in his testimony before the Joint Board, "when . . . you have . . . 1300 [rural] study areas, trying to figure out

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5 *See* Comments of AT&T Corp. at 3; Transcript at 101 (testimony of Jeffrey Reynolds); Transcript at 55 (testimony of Dale Lehman).

either a price-cap mechanism or a forward-looking costing tool for the diversity and richness of the 1300 rural study areas, is a complicated process . . . ."[6] Economist Dr. Dale Lehman explained that a forward-looking cost model would only provide an output that would then have to be validated against embedded costs.[7] "You have a thousand inputs. And even if . . . 900 of them are accurate, you don't know if you a reasonable output of that model unless you compare it to something real."[8] Unlike forward-looking costs, embedded costs are the real, verifiable costs of the ILEC.

Second, the Joint Board should resist choosing a cost methodology based on the notion that a lower cost estimate necessarily is superior. Lower cost outputs resulting from a forward-looking cost model likely would result in insufficient support, in violation of the Act. Contrary to the implications of some commenters, embedded costs are heavily scrutinized to ensure that support is being used for its intended purposes. As explained by Dr. Dale Lehman, "A move to a forward-looking cost standard based on current technology means that incumbents will not recover the total costs of investments made in the past *using efficient technologies at the time*."[9] Rural carrier networks were developed based on prudent investment choices. Any apparent cost savings resulting from a forward-looking cost model likely would be illusory.[10] Rural carriers should not be penalized for these choices simply because of subsequent changes to the market. The Joint Board should recommend the continued use of embedded costs to determine rural carrier universal service eligibility.

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6 Transcript at 89.

7 Transcript at 115.

8 *Id.*.

9 Written Statement of Dale E. Lehman at 8 [emphasis added].

10 *Id.* at 4.

IV. CETCS SHOULD JUSTIFY RECEIPT OF UNIVERSAL SERVICE SUPPORT BASED ON THEIR OWN COSTS

The record in this proceeding bears out that CETCs should receive support based on their own costs, not the costs of the ILEC. ILEC costs simply are not relevant to CETCs' costs. It is *not* competitively neutral to require less of CETCs, but to fund them based on the ILEC's service obligations and costs. As the Kansas state court correctly observed, "Attempting to establish competitive neutrality without evaluating all providers' costs and expenses means . . . compare[ing] apples and oranges."[11] Richard Coit of the South Dakota Independent Telephone Coalition explained to the Joint Board:

> we've got a situation today where there are carriers that are getting money out of the universal service fund that have stated very clearly that they don't believe they have carrier-of-last-resort responsibilities. And if you look at cost drivers for rural carriers, in a lot of cases it's those customers that are so remote that . . . they're the ones that . . . drive high cost.[12]

Rural ILECs serve every single customer who requests service, must meet strict service quality and outage recovery requirements, and, perhaps most important, must open their books to regulators and prove that their costs justify universal services support.[13] CETCs do not have these obligations, and, in fact, routinely petition the FCC to redefine study areas to serve fewer customers even thought they draw support based on the cost of serving the entire study area. Arguments that the identical support rule promotes competitive neutrality do not withstand scrutiny and cannot save the identical support rule.

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[11] *Bluestem Telephone Co. v. Kansas Corporation Commission*, Case Nos. 01-C-39, 01-C-40, 03-C-20, 20004-CV-19, Memorandum Decision (Kansas Dist. Ct. 2004).

[12] Transcript at 124.

[13] Transcript at 136 (testimony of David Cole).

Claims that CETCs should not be required to justify their support due to administrative difficulties also fail. It is bad policy to provide universal service funding to CETCs without requiring them to justify such funding. Additionally, as David Cole of CenturyTel testified before the Joint Board, wireless carriers should be able to report their own costs. CenturyTel has substantial experience with wireless carrier operations, and Mr. Cole previously served on a CTIA committee that dealt with accounting issues for wireless carriers.[14] Standard accounting practices by wireless carriers are essential to company relations with the financial services industry. Indeed, these same companies that claim regulatory reporting by CETCs to be unworkable readily report cost information to Wall Street. The Joint Board should reject arguments that it would be impossible for wireless ETCs to report their costs to the government.

V. THE SAFETY VALVE MECHANISM SHOULD BE AMENDED TO PROMOTE, NOT DISCOURAGE, IMPROVED SERVICES TO ACQUIRED EXCHANGES

There is overwhelming support to remove the disincentives to make capital and maintenance expenditures in exchanges during the first year after acquisition, caused by the FCC's safety-valve mechanism. The limitations placed on recovery of first-year expenditures has completely thwarted the intended purpose of the safety-valve mechanism. CenturyTel has acquired numerous rural exchanges over the last several years and invested millions of dollars in the first year after acquisition despite the fact that such expenditures would not qualify for recovery under the current safety-valve mechanism. As a result of the limitations of the current safety-valve mechanism, rural companies have received little or no support for their investment in acquired exchanges. CenturyTel further supports increasing the level of support in the first

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[14] *Id.*

year after acquisition to 75 percent of the difference between its average loop cost and its baseline loop cost. In contrast to the current mechanism which encourages delay, these changes will encourage rapid investment in newly acquired exchanges.

VI. CONCLUSION

For the forgoing reasons, CenturyTel urges the Joint Board to recommend that the FCC continue to define eligibility for rural high-cost support on the definition of "rural telephone company" in the Act, and to measure support to rural ILECs on their actual embedded costs. The Joint Board also should recommend that CETCs be required to justify their receipt of support based on CETCs' own costs. CenturyTel further requests that the Joint Board recommend changes to the safety-valve mechanism, so that carriers are provided proper incentives to invest in acquired rural exchanges.

Respectfully submitted,

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